

Remarks

This is in response to the Office Action dated August 3, 2007. With this response, claims 1, 8 and 13 are amended. Reconsideration of amended claims 1, 8, 13 and all claims depending therefrom is respectfully requested.

On page 2 of the Office Action, claims 1-4 were rejected under 35 U.S.C. Section 103(a) as unpatentable over U.S. patent 5,676,656 (“the ‘656 patent”) in view of U.S. patent 5,385,554 (“the ‘554 patent”). Claims 5-7 were rejected under 35 U.S.C. Section 103(a) as unpatentable over the ‘656 patent in view of the ‘554 patent and further in view of U.S. patent 5,429,616 (“the ‘616 patent”). Further, claims 8-20 were rejected under 35 U.S.C. Section 103(a) as unpatentable over the ‘616 patent in view of the ‘554 patent.

Amended claims 1, 8 and 13 describe a system in which a notched needle (which inherently enables the “leakage” of bodily fluid from the distal end of the needle) is designed to cooperate with a bodily fluid control mechanism. In doing so, amended claims 1, 8, 13, and the claims depending therefrom, solve the unique problem associated with controlling the leakage of bodily fluids from a catheter system including a notched needle designed for the visualization of bodily fluid “flashback”, and the need to provide a leak proof catheter system.

The cited art does not teach or suggest a design that combines a notched needle with a septum or elastic plug that operates in a manner such that leaks are automatically and consistently controlled. Indeed, the ‘554 patent (see fig. 6a) and the ‘616 patent (see fig. 4) each require the user of the device to operate the fluid control mechanism. Although the ‘656 patent shows a user independent bodily fluid flow control mechanism (see plug 23 in fig. 2), there is no need for a notched needle for detecting of flashback because “needle hub 41 can take the form of a flashback chamber” (see col.2, lines 50-51). Applicant respectfully disagrees that it would have been obvious at the time Applicant’s invention was made to include *a notched needle and a septum*. Further, since there is no teaching in the cited art including a notched needle in combination with a septum, there is no consideration of a notch distance that allows for the functionality of the septum.

Indeed, Applicant respectfully suggests that it is the “notch distance” as claimed by Applicant herein that enables the combination of a notched needle and a septum or elastic plug to control leaks in a consistent and predictable manner.

For the foregoing reasons, Applicant respectfully suggests that amended claims 1, 8, 13 and all claims depending there from are in a form for allowance. Notice to that effect is respectfully requested.

If prosecution of this application would be furthered by a telephone interview, the Examiner is invited to call the undersigned. Authorization to charge any required fees to Deposit Account No. 02-1666 is hereby granted.

Respectfully submitted,

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